

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,

*

Plaintiff,

*

v.

1:16-CV-3088-ELR

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STATE OF GEORGIA,

*

*

Defendant.

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O R D E R

On November 1, 2016, Defendant State of Georgia moved to dismiss the complaint against it filed by Plaintiff United States of America. [Doc. 9]. In the alternative, Defendant sought a stay of this action until the Eleventh Circuit Court of Appeals decided the appeal in C.V. v. Dudek, No. 12-60460-CIV-ZLOCH, Southern District of Florida.

In moving to dismiss, or alternatively stay this case, Defendant's threshold argument was that the United States does not have standing to bring a claim for an alleged violation of Title II of the Americans with Disabilities Act ("ADA"). In C.V. v. Dudek, the United States Department of Justice ("Department") brought a suit against the State of Florida alleging a claim under Title II of the ADA. 209 F.Supp.3d

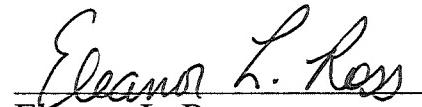
1279 (S.D. Fla. 2016). Despite previous holdings that the Department did have standing and despite the fact that discovery had closed and the case was proceeding to trial, Judge William J. Zloch, *sua sponte*, found that the Department did not have standing and dismissed the suit brought by the Department. Id. The Department appealed the trial court's ruling dismissing the complaint for lack of standing to the Eleventh Circuit Court of Appeals.

On August 11, 2017, this Court granted Defendant's requested alternative relief and stayed the present case "until the Eleventh Circuit Court of Appeals resolve[d] C.V. v. Dudek or the United States in Dudek dismisse[d] its appeal." [Doc. 40]. The Court further ordered the parties to, within seven (7) days of either event, file a notice on the docket informing the Court of the status of the appeal. [Id.] On September 19, 2019, Plaintiff complied with the Court's Order by filing a notice indicating that the Eleventh Circuit resolved the case by entering a ruling. [Doc. 44]. The Eleventh Circuit reversed the trial court's judgment, holding that the Attorney General for the United States of America does have standing to sue the state of Florida for violations of the ADA. U.S. v. Florida, No. 17-13595, 2019 WL 4439465, at *24.

After a review of Plaintiff's notice, and the Eleventh Circuit's decision, the Court **LIFTS** the previously imposed stay [Doc. 40], and **DIRECTS** the Clerk to terminate the motion at [Doc. 9].

Furthermore, this case is now ready to proceed forward. Accordingly, the Court sets the following briefing schedule: If Defendant intends to file a motion to dismiss on any remaining grounds, it must file said motion within twenty-one (21) days of entry of this Order. Plaintiff will then have fourteen (14) days to respond to Defendant's motion; and Defendant will thereafter have fourteen (14) days to file a reply brief. Alternatively, Defendant may file an answer to Plaintiff's complaint within twenty-one (21) days from the date of entry of this Order. All filings must comply with the Local Rules of this Court and the directives provided herein.

SO ORDERED, this 16th day of October, 2019.



Eleanor L. Ross
United States District Judge
Northern District of Georgia